

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

YOLANDA PINEDA, an individual

Plaintiff,

vs.

WAL-MART STORES, INC., a
corporation,

Defendant.

NO. _____

NOTICE OF REMOVAL

Clerk's Action Required

TO: The Judges and Clerk of the United States District Court in and for
the Eastern District of Washington at Spokane

AND TO: Plaintiff and her Counsel

Defendant Wal-Mart Stores, Inc. ("Wal-Mart") hereby gives notice that
this action is removed to the United States District Court for the Eastern District
of Washington at Spokane from the Superior Court of Washington, in and for
Grant County. Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Wal-Mart further
states as follows:

NOTICE OF REMOVAL

- 1 -

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

1 **1. Venue is Proper:** This matter is being removed to the Eastern
 2 District, Spokane Division because the claims arose in Grant County,
 3 Washington. Plaintiff's Complaint was filed in Grant County Superior Court.
 4 Thus, venue is proper in this Court because it is the "district or division
 5 embracing the place where such action is pending." 28 U.S.C. §§ 128, 1441.

6 **2. State Court Action:** Wal-Mart is a defendant in a civil action filed
 7 in the Superior Court of Washington, in and for Grant County, styled as *Pineda v.*
 8 *Wal-Mart Stores, Inc.*, Cause No. 14-2-01631-6 ("State Court Action"). No other
 9 defendants have been named.

1 **3. Commencement of State Court Action:** Plaintiff filed the
 0 Summons and Complaint with the Clerk of the Grant County Superior Court, on
 1 or about December 24, 2014. A true and correct copy of the Summons and
 1 Complaint is attached hereto as **Exhibit 1**. Plaintiff served the Summons and
 1 Complaint on Wal-Mart's registered agent in the state of Washington, CT
 2 Corporation, on January 23, 2015. A true and correct copy of the CT
 1 Corporation's Service of Process Transmittal is attached as **Exhibit 2**. This
 3 Notice of Removal is timely filed within thirty (30) days of service of the
 1 Summons and Complaint pursuant to 28 U.S.C. §§ 1441 and 1446.

4 **4. Nature and Description of Case:** The above-entitled action is a
 1 civil action seeking damages for alleged disability discrimination in violation of
 5 RCW 49.60 and retaliation in violation of RCW 51.48.025.

1 **5. Diversity of Citizenship is Basis for Federal Court Jurisdiction:**
 6 Complete diversity exists between Plaintiff and Wal-Mart because they are
 1 citizens of different states:

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1 a. Plaintiff is, and at all material times has been, a resident of
 2 Grant County, Washington, and is therefore a citizen of the State of Washington.
 3 Ex. 1 at ¶ 1.1.

4 b. Wal-Mart is, and at all material times has been, incorporated
 5 under the laws of the State of Delaware, with its principal place of business in
 6 Bentonville, Benton County, Arkansas. Thus, for jurisdictional purposes, Wal-
 7 Mart is and has at all material times been a citizen of the states of Arkansas and
 8 Delaware. Ex. 1 at ¶ 1.2; *see also* Declaration of Laura E. Kruse Regarding
 9 Records and Proceedings in State Court and Verifying Corporate Citizenship.

1 6. **Amount in Controversy:** The amount in controversy is not
 0 expressly set forth in Plaintiff's Complaint. However, given the nature of relief
 1 sought in Plaintiff's Complaint, Plaintiff is seeking monetary redress in this
 1 action exceeding \$75,000. Ex. 1 at ¶¶ 3.1, 4.3. Specifically, Plaintiff's
 1 Complaint contends she is seeking the following relief:

- 2 a. Award of damages for past and future lost wages;
- 1 b. Award of other general and special damages; and
- 3 c. Attorney's fees.

1 Further, Plaintiff contends she was terminated on or about May 17, 2014.
 4 According to her Complaint, she is seeking, in part, damages for lost wages from
 1 the date of termination through the date of trial. At this time, over 9 months have
 5 passed since the Plaintiff was terminated. Plaintiff was making \$10.05 per hour
 1 and working an average of approximately 76 hours per pay period at the time of
 6 her termination. *See* Declaration of Galen Mathis in Support of Wal-Mart's
 1 Notice of Removal, ¶¶ 3, 5, Ex. A. Wal-Mart employees are paid twice a month
 7 and receive 26 pay checks per year. *Id.* ¶ 4. Plaintiff is thus seeking

reimbursement for past lost wages in the amount of, to date, approximately \$15,276 (76 hours per pay period, multiplied by \$10.05 per hour, multiplied by 20 pay periods (40 weeks)).

This number will increase by approximately \$763.80 every two weeks until trial, which will likely be approximately one year from now, making her lost wages claim total approximately \$35,134.80 (\$15,276 + \$19,858.80). Further, Plaintiff claims damages for future wage loss, which is approximately at least \$19,858.80 per year, not accounting for raises. Plaintiff, at age 41, will work for at least another 20 years. Thus, it is presumed that Plaintiff is seeking upwards of \$400,000 in lost future wages (76 hours per pay period, multiplied by \$10.05 per hour, multiplied by 520 pay period (which is the total of 20 years multiplied by 26)). Moreover, Plaintiff is seeking general damages presumably for pain and suffering, in addition to attorney fees, which usually never total less than \$100,000 in employment discrimination cases. Taken together, Plaintiff is seeking damages that greatly exceed the jurisdictional minimum of \$75,000 by a preponderance of the evidence. Accordingly, the Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332.

7. **Record in State Court:** The following pleadings constitute all of the process, pleadings and orders received in this action up to the present time:

- Summons and Complaint, filed on December 24, 2014;
- Notice of Appearance of Counsel by Laura E. Kruse, filed on January 30, 2015.

Pursuant to 28 U.S.C. § 1446, true and correct copies of the above pleadings are attached to the Declaration of Laura E. Kruse Regarding Records

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1 and Proceedings in State Court and Verifying Corporate Citizenship as Exhibits A
2 and B, filed concurrently herewith.

3 Also being filed concurrently herewith in the Superior Court for Grant
4 County are the following pleadings:

- 5 • Notice of Filing of Notice of Removal, with this Notice of Removal
6 attached as Exhibit A, and the Notice of Removal to Plaintiff
7 attached as Exhibit B. A true and correct copy of this pleading is
8 attached as **Exhibit 3**.

9 **8. Applicable Statutes:** This is a civil action over which this Court has
1 original jurisdiction pursuant to 28 U.S.C. § 1332, and the action is removable
0 pursuant to 28 U.S.C. § 1441(b). This case is properly removed to this Court
1 pursuant to 28 U.S.C. § 1441 because this Court has subject matter jurisdiction
1 over this action and because Wal-Mart has satisfied the procedural requirements
1 for removal set forth in 28 U.S.C. § 1446.
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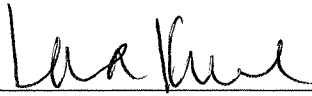
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1 NOTICE OF REMOVAL

- 5 -

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Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

1 DATED this 18th day of February 2015.

2
3 BETTS, PATTERSON & MINES, P.S.

4 By 
5 Laura E. Kruse, WSBA #32947

6
7 By /s Steven Goldstein
8 Steven Goldstein, WSBA No. 11042
9 Betts, Patterson & Mines, P.S.
1 701 Pike Street, Suite 1400
0 Seattle WA 98101-3927
1 Telephone: (206) 292-9988
1 Facsimile: (206) 343-7053
1 E-mail: lkruse@bpmlaw.com
1 E-mail: sgoldstein@bpmlaw.com
1 Attorneys for Defendant Wal-Mart Stores,
1 Inc.

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9 NOTICE OF REMOVAL

- 6 -

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

CERTIFICATE OF SERVICE

I, Nancy French, hereby certify that on February 18, 2015, I electronically filed the following:

- **Notice of Removal to the U.S. District Court for the Eastern District; and**
- **Certificate of Service.**

with the Court using the CM/ECF system which will send notification of such filing to the following:

Counsel for Plaintiff

Scott M. Kane

Lacy Kane, P.S.

300 Eastmont Ave

East Wenatchee, WA 98802

DATED this 18th day of February 2015.

BETTS, PATTERSON &
MINES P.S.

By Nancy French
Betts, Patterson & Mines, P.S.
One Convention Place, Suite 1400
701 Pike Street
Seattle WA 98101-3927
Telephone: (206) 292-9988
Facsimile: (206) 343-7053
E-mail: nfrench@bpmlaw.com
Attorneys for Defendant Wal-Mart
Stores, Inc.

NOTICE OF REMOVAL

- 7 -

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Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

EXHIBIT 1

FILED

2014 DEC 24 PM 3:12

KIMBERLY A. ALLEN
GRANT COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF GRANT

YOLANDA PINEDA,

Plaintiff,

v.

WAL-MART STORES, INC., a corporation,

Defendant.

No. 14-2-01631-6

SUMMONS

2015 JAN 21 AM 9:20

RECEIVED

TO: DEFENDANT

A lawsuit has been started against you in the above-entitled court by the above-named plaintiff. Plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense, in writing, and serve a copy upon the undersigned attorney for the plaintiff(s) within twenty (20) days after the service of this Summons (or if served upon you outside the State of Washington, within 60 days after service), excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where plaintiff(s) is(are) entitled to what he/she/they ask(s) for because you have not responded. If you serve a notice of appearance on the undersigned attorney, you are entitled to notice before a default judgment may be entered.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

You may demand that the plaintiff(s) file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the person signing this Summons. Within

SUMMONS - 1

c3: pineda-y.emp\pleadings\summons

LACY KANE, P.S.
300 Eastmont Avenue
East Wenatchee, WA 98802
(509) 884-9541 ♦ Fax: (509) 884-4805

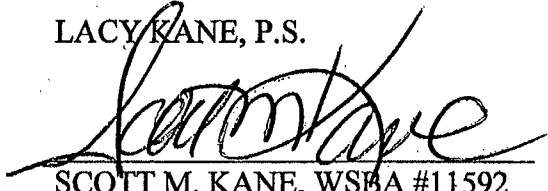


1 fourteen (14) days after you serve the demand, the plaintiff(s) must file this lawsuit with the court
2 or the service on you of this Summons and Complaint will be void.

3 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State
4 of Washington.

5 DATED this 22ND day of December, 2014.

6 LACY KANE, P.S.

7 
8 SCOTT M. KANE, WSEA #11592
9 Attorney for Plaintiff
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28 SUMMONS - 2

c3: pineda-y.emplpleadings/summons

LACY KANE, P.S.
300 Eastmont Avenue
East Wenatchee, WA 98802
(509) 884-9541 ♦ Fax: (509) 884-4805



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF GRANT

YOLANDA PINEDA,

Plaintiff,

v.

WAL-MART STORES, INC., a corporation,

Defendant.

No.

14-2-01631-6

COMPLAINT

RECEIVED

2015 JAN 21 AM 9:21

GRANT COUNTY

I. PARTIES, JURISDICTION AND VENUE

1.1 Plaintiff. At all material times, Plaintiff Yolanda Pineda ("Pineda") resided in Moses Lake, Grant County, Washington.

1.2 Defendant. Defendant Wal-Mart, Inc. ("Wal-Mart") is a Delaware corporation, registered with the State of Washington and doing business in Grant County, Washington.

1.3 The events giving rise to this cause of action occurred while Pineda was employed by Wal-Mart, and working in Grant County, Washington.

1.4 Jurisdiction and venue are proper.

COMPLAINT - 1

c3: pineda-y.emp\pleadings\complaint

LACY KANE, P.S.
300 Eastmont Avenue
East Wenatchee, WA 98802
(509) 884-9541 ♦ Fax: (509) 884-4805



II. FACTS

2.1 Pineda restates and realleges all prior paragraphs.

2.2 Wal-Mart employed Pineda for approximately nine (9) months.

2.3 On or around May 7, 2014, Pineda sustained injury to her back while working.

2.4 Pineda immediately reported the injury to her supervisor, Landon.

2.5 Pineda visited a doctor for treatment, and the doctor's office contacted Wal-Mart employee, Debby, for approval to see if they could treat Pineda.

2.6 On behalf of Wal-Mart, Debby authorized Pineda's doctor visit.

2.7 Pineda filed a worker's compensation claim with the Washington State Department of Labor & Industries (L&I).

2.8 The doctor authorized Pineda to return to work with restrictions for light duty for one week.

2.9 After the one week of light duty, the doctor authorized Pineda to return to work without restrictions.

2.10 After returning to work without restrictions, on or about May 17, 2014, Wal-Mart fired Pineda.

**III. FIRST CAUSE OF ACTION:
DISABILITY DISCRIMINATION (49.60.030)**

3.1 Pineda restates and realleges all prior paragraphs.

3.2 The conduct of Defendant Wal-Mart gives rise to a claim for disability discrimination.



3.3 As a proximate result of Defendant Wal-Mart's conduct, Pineda has suffered damages in amount to be proven at trial.

**IV. SECOND CAUSE OF ACTION:
RETALIATION (RCW 51.48.025)**

4.1 Pineda restates and realleges all prior paragraphs.

4.2 The conduct of Defendant Wal-Mart gives rise to a claim for retaliation.

4.3 As a proximate result of Defendant Wal-Mart's conduct, Pineda has suffered damages in amount to be proven at trial.

V. REQUEST FOR RELIEF

Pineda requests the Court grant the following relief:

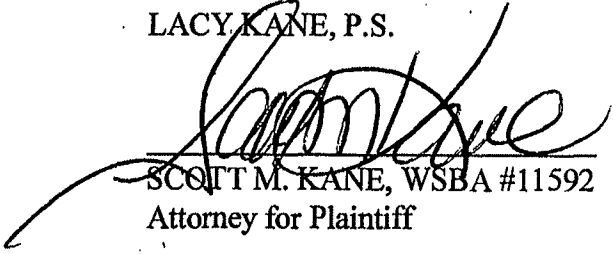
5.1 The award of damages, including but not limited to:

- a. Past and future lost wages;
- b. Attorney's fees and costs of suit;
- c. All other general and special damages as may be proven.

5.2 The award of such other relief as the Court may deem just and equitable.

DATED this 22nd day of December, 2014.

LACY KANE, P.S.


SCOTT M. KANE, WSBA #11592
Attorney for Plaintiff



CERTIFICATION BY PLAINTIFF

I am the Plaintiff in the above-captioned matter; I have read the within and foregoing Complaint, know the contents thereof, and believe the same to be true.

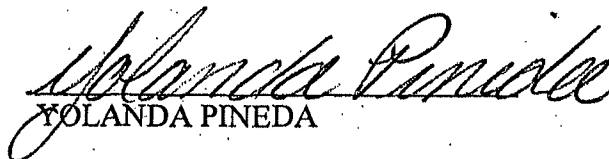

YOLANDA PINEDA



EXHIBIT 2



**Service of Process
Transmittal**

01/23/2015

CT Log Number 526444143

TO: Kim Lundy Service of Process, Legal Support Supervisor
Wal-Mart Stores, Inc.
702 SW 8th St MS 215
Bentonville, AR 72716-6299

RE: Process Served in Washington

FOR: Wal-Mart Stores, Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Pineda Yolanda, Pltf. vs. Wal-Mart Stores, Inc., etc., Dft.

DOCUMENT(S) SERVED: Summons, Complaint, Certification

COURT/AGENCY: Grant County Superior Court, WA
Case # 142016316

NATURE OF ACTION: Employee Litigation - Wrongful Termination - On or about May 17, 2014

ON WHOM PROCESS WAS SERVED: CT Corporation System, Olympia, WA

DATE AND HOUR OF SERVICE: By Process Server on 01/23/2015 at 10:30

JURISDICTION SERVED : Washington

APPEARANCE OR ANSWER DUE: Within 20 days after service of this summons, excluding the day of service

ATTORNEY(S) / SENDER(S): Scott M. Kane
Lacy Kane, P.S.
300 Eastmont Ave.
East Wenatchee, WA 98802
509-884-9541

ACTION ITEMS: CT has retained the current log, Retain Date: 01/26/2015, Expected Purge Date: 01/31/2015
Image SOP
Email Notification, Candiss Golaszewski-CT West
CLS-Verificationwest@WoltersKluwer.com
Email Notification, Kim Lundy Service of Process ctlawsuits@walmartlegal.com

SIGNED: CT Corporation System

ADDRESS: 505 Union Avenue SE
Suite 120
Olympia, WA 98501

TELEPHONE: 360-357-6794

EXHIBIT 3

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF GRANT

YOLANDA PINEDA, an individual

Plaintiff,

vs.

WAL-MART STORES, INC., a corporation,

Defendant.

NO. 14-2-01631-6

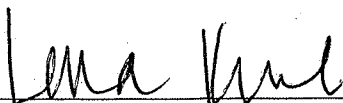
NOTICE OF FILING NOTICE OF
REMOVAL TO UNITED STATES
DISTRICT COURT FOR THE EASTERN
DISTRICT OF WASHINGTON AT
SPOKANE

CLERK'S ACTION REQUIRED

Defendant Wal-Mart Stores, Inc. ("Wal-Mart") hereby gives notice that on February 18, 2015 Wal-Mart filed a Notice of Removal in the office of the Clerk of the United States District Court for the Eastern District of Washington at Spokane. A true and correct copy of the Notice of Removal is attached to this Notice as **Exhibit A**. Wal-Mart concurrently filed a Notice of Removal to Plaintiff, a true and correct copy of which is attached to this Notice as **Exhibit B**.

DATED this 18 day of February, 2015.

BETTS, PATTERSON & MINES, P.S.

By 

Laura E. Kruse, WSBA No. 32947
Steven Goldstein, WSBA No. 11042
Attorneys for Wal-Mart Stores, Inc.

NOTICE OF FILING NOTICE OF
REMOVAL

- 1 -

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

CERTIFICATE OF SERVICE

I, Nancy French, declare as follows:

1) I am a citizen of the United States and a resident of the State of Washington. I am over the age of 18 years and not a party to the within entitled cause. I am employed by the law firm of Betts, Patterson & Mines, P.S., whose address is One Convention Place, Suite 1400, 701 Pike Street, Seattle, Washington 98101-3927.

2) By the end of the business day on February 18, 2015, I caused to be served upon counsel of record at the addresses and in the manner described below, the following document(s):

- NOTICE OF FILING NOTICE OF REMOVAL; and
- Certificate of Service.

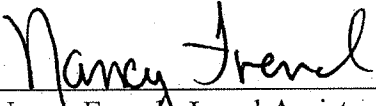
Counsel for Plaintiff

Scott M. Kane
Lacy Kane, P.S.
300 Eastmont Avenue
East Wenatchee, WA 98802

☐ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☒ Overnight
☐ E-mail

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 18th day of February 2015.



Nancy French, Legal Assistant

NOTICE OF FILING NOTICE OF
REMOVAL

- 2 -

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(206) 292-9988